

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAY 05 2006

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte ROBERT J. CROWLEY

Application 09/835,063

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 11, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the Image File Wrapper (IFW) indicates that appellant filed an Information Disclosure Statement (IDS) on February 25, 2003. It is not apparent from the record whether the examiner considered the statement submitted or notified appellant of why his submission did not meet the criteria set

forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellant of the Primary Examiner's decision is required.

In addition, § 1208 of the Manual of Patent Examining Procedure (MPEP) (8<sup>th</sup> Edition, Rev. 1, February 2003) states:

APPEAL CONFERENCE

An appeal conference is mandatory in all cases in which an acceptable brief (MPEP § 1206) has been filed. . . .

. . . .

. . . If the examiner's answer does not contain the appropriate indication that an appeal conference has been held (i.e., including the names of the conferees and identifying themselves as the conferees along with their initials), the Board should return the application directly to the appropriate Technology Center (TC) Director for corrective action. . . . This procedure applies to all examiner's answers received by the Board on or after November 1, 2000.

The Examiner's Answer mailed April 9, 2004 is deficient in that there is no evidence that an appeals conference has been held.

Accordingly, it is

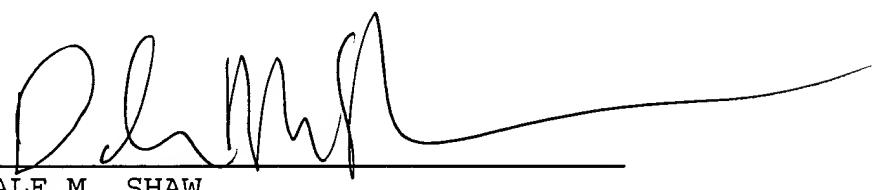
ORDERED that the application is returned to the Examiner:

1. for consideration of the IDS filed February 25, 2003 and appropriate notification to appellant regarding the Primary Examiner's decision;

2. for taking corrective action regarding the appeals conference; and
3. for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:

  
DALE M. SHAW  
Deputy Chief Appeal Administrator  
(571) 272-9797

DMS:psb

Crowell & Moring LLP  
Intellectual Property Group  
P.O. Box 14300  
Washington, D.C. 20044-4300